IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION,)
Plaintiff)
v.) Civil Action No. 3:08-cv-02050 (SAF)
MARK CUBAN,)
Defendant)))

MARK CUBAN'S MOTION TO DISMISS

Mark Cuban moves to dismiss Plaintiffs' Complaint with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted, and pursuant to Federal Rule of Civil Procedure 9(b) for failure to plead with particularity all of the circumstances constituting fraud.

This motion is supported by an accompanying memorandum of law.

Respectfully submitted,

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/s/ Lyle Roberts

By:

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CERTIFICATE OF SERVICE

On January 14, 2009, I electronically submitted Mark Cuban's Motion Dismiss, along with a proposed order, with the Clerk of Court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Lyle Roberts	
Lyle Roberts	